

TOWN OF NEWBURGH

ZONING BOARD OF APPEALS

IN THE APPLICATION OF LOUIS GALLO AND JEAN GALLO

Section 60

Block 3

Lot 6.1

DECISION AND RESOLUTION

The application of LOUIS GALLO and JEAN GALLO seeks an area variance to erect an addition onto an existing building for Dairy Queen Ice Cream Sales on property located at 137 South Plank Road, a B Zoning District in the Town of Newburgh.

The Applicant, having submitted this application, paid the required fees, provided a true copy of the property description, submitted a plot plan and list of property owners within three hundred feet, the matter having been properly noticed for public hearing and caused to be published by the Chairman of the Board; and the hearing having been conducted, the Board thereupon entered into deliberative session and does find as follows:

1. That the procedural requirements of the General Municipal Law and the Town Law of the State of New York, the Zoning Law of the Town of Newburgh and the regulations of this Board have been

complied with in all respects.

2. The applicant here seeks to add a drive-through and additional seating at an existing Dairy Queen. This will be in the form of a 22 foot by 40 foot addition to the store. This will create a front yard set back of 16 feet rather than the 40 feet required in a B district.

3. Section 267b of the Town Law of the State of New York states that in granting an area variance the Zoning Board must weigh the "detriment to the health, safety and welfare of the neighborhood" against "the benefit to the applicant if the variance is granted".

The Town Law states that

"in making such determination the Board shall also consider: 1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties would be created by the granting of the area variance; 2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, within an area variance; 3. whether the requested area variance is substantial; 4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and 5. whether the alleged difficulty was self created".

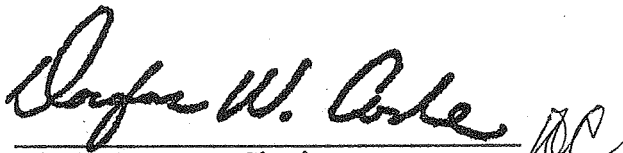
4. In the present case, the board finds that there will be no undesirable change in the neighborhood. None of the neighbors, all of whom are commercial entities, have made complaints. The applicant testified that he will make no changes in the curb cuts on the property.

5. The position of the present building makes this site the most logical place for an addition. The requested variance is not substantial given the fact that the front of the property is on a road and not on the boarder of any neighboring property. There is

no evidence of any impact on conditions in the neighborhood.

THERE BEING NO FURTHER FINDINGS, this application is approved.

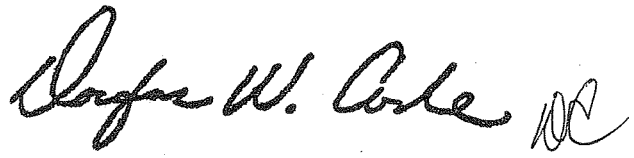
Dated: March 2, 1994
Newburgh, New York


DOUG CARLE, Chairman

VOTING ON THE APPLICATION OF
LOUIS GALLO AND JEAN GALLO.

MEMBER	VOTE	
	YES	NO
DOUGLAS W. CARLE	X	
PAUL BLANCHARD	X	
GRACE CARDONE		ABSENT
RUTH EATON	X	
MICHAEL MAHER	X	
LOUIS SCALFARI	X	
JOHN MCKELVEY	X	

Dated: MARCH 2, 1994
Newburgh, New York



DOUGLAS CARLE, Chairman